

# **SHEEP DIP LANE PRIMARY SCHOOL**

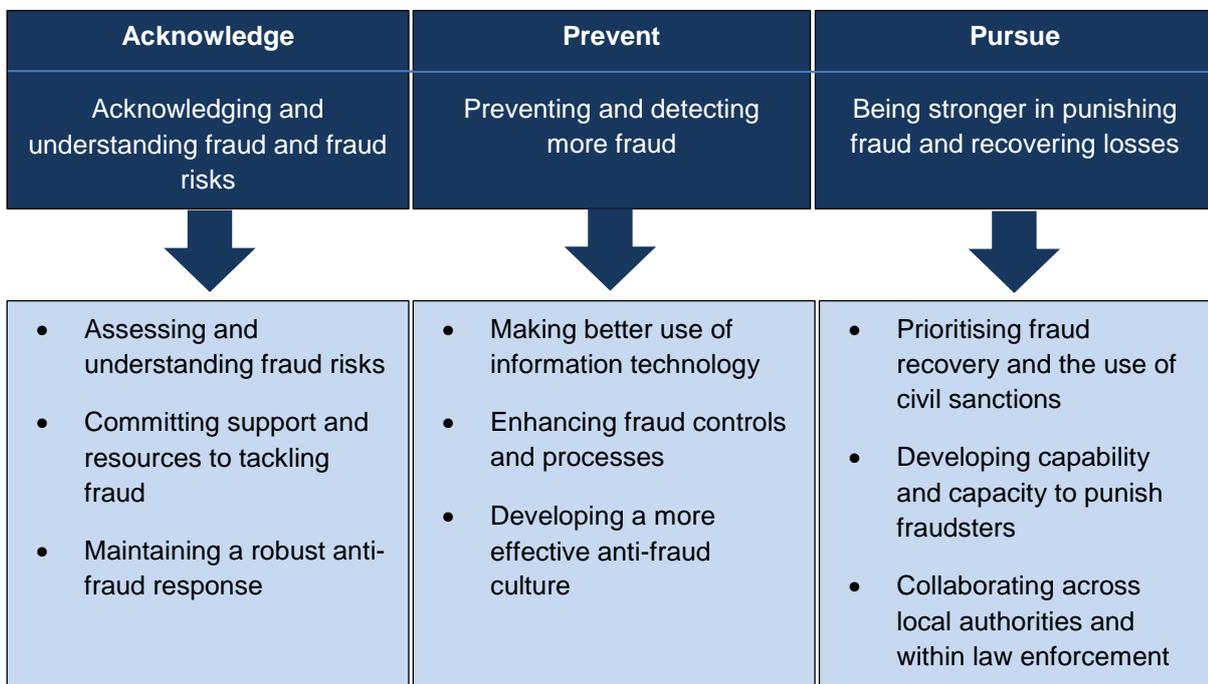
## **DONCASTER COUNCIL ANTI-FRAUD, BRIBERY AND CORRUPTION FRAMEWORK**

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<b>ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY</b>	

## 1. Introduction

- 1.1. Fraud and corruption is a constant threat to public services. The Audit Commissions *Protecting the Public Purse* report 2014, estimates fraud losses for local government to be £2.1 billion per annum (excluding housing benefits fraud).
- 1.2. Fraud is sometimes seen as a victimless crime, but this is never the case. Fraud against local authorities pushes up costs, prices and reduces the amount of spending power available to councils to commission / provide services for citizens. Fraud, harms all members of the public and undermines the Council's overall aim to ensure that Doncaster and its people thrive. (Team Doncaster Charter).
- 1.3. The Council takes its responsibilities to protect the public purse very seriously and is committed to the highest standards of openness and accountability in order to ensure the proper use and protection of public funds and assets. Doncaster Council will not, therefore, tolerate fraud, bribery or corruption in any area of Council activity and will take all necessary steps to prevent fraud (where possible), investigate fraud where it is detected or reported and pursue appropriate sanctions against those involved in fraudulent or corrupt activities.
- 1.4. Our approach to this is based on the Local Government Fraud Strategy: *Fighting Fraud Locally* and is based on 3 key themes.



- 1.5. In addition to the *Fighting Fraud Locally* Strategy, a recent Counter Fraud Code of Practice has been released by CIPFA. An assessment of compliance with this code is currently being undertaken. When complete, an appropriate action plan will be drafted highlighting any areas for improvement. This, and

associated progress, will be reported to the Audit Committee. Where necessary, elements of the Code of Practice that affect this policy and strategy have been taken into account during the refresh of these documents.

## 2. Our aims

- 2.1. This Anti-Fraud, Bribery and Corruption Policy and accompanying documents, intend to set out the Council's stance on fraud, corruption or other dishonest acts and reinforce an open and honest culture. Doncaster Council is committed to the highest possible standards of openness, probity and accountability. We expect that elected members and officers at all levels will protect the Council and its resources and lead by example, ensuring high standards of personal conduct and adherence to the Council's policies, procedures and rules.
- 2.2. The Council expects the same level of honesty from its partners, agents, contractors, suppliers and the public in all of its interactions.
- 2.3. This framework contains: -
  - **The Policy Statement** identifies the Council's overall stance relating to fraud and its expectations and defines fraud and corruption.
  - **The Strategy** describes the Council's approach to minimising the risk of fraud. The key objectives of the Strategy are to enable the Council to minimise risk and any losses it experiences through fraud, bribery and/or corruption and to embed the management of fraud risk within the culture of the organisation.
  - **The Fraud Response Plan** outlines the Council's approach to dealing with detected and reported instances of fraud and corruption and how this fits in with other Council policies and procedures.
  - **The Prosecution Policy** outlines the Council's commitment to seek remedy and take action / prosecute those responsible for fraudulent or corrupt acts.
- 2.4. Specifically, this framework and its elements aim to:-
  - promote a culture of honesty; an anti-fraud culture.
  - define and explain the roles of key parties to this framework.
  - promote the prevention of fraud and corruption.
  - aid the detection of fraud and corruption.
  - ensure the effective investigation in all cases where suspected fraud or corruption has occurred.

- explain what we will do if we identify any cases of fraud and corruption and what action we will take.

2.5. This framework specifically applies to :-

- councillors
- employees
- agency staff
- contractors
- consultants
- suppliers
- service users
- members of organisations funded by Doncaster Council
- employees of principal partner organisations

### 3. What are Fraud, Theft and Bribery?

#### Fraud

3.1. The Fraud Act 2006 came into force on 15th January, 2007. The Act created a single offence of fraud and defined this in three classes:

- False representation.
- Failure to disclose information where there is a legal duty to do so.
- Abuse of position.

3.2. Each of the above (3.1) has a slightly different fraud definition. The 3 main definitions are given below as defined by the Fraud Act 2006.

#### Fraud by False Representation

*'A person is guilty of fraud by false representation if they dishonestly make a false representation and intend by making the representation, to make a gain for himself or another, or to cause loss to another, or to expose another to the risk of a loss'*

#### Fraud by Failing to Disclose Information

*'A person is guilty of fraud by failing to disclose information if he dishonestly fails to disclose to another person information which he is under a legal duty to disclose and intends by failing to disclose the information to make a gain for himself or another or to cause loss to another or expose another to a risk of loss'*

### Fraud by Abuse of Position

*'A person is guilty of fraud by abuse of position if he occupies a position in which he is expected to safeguard, or not act against, the financial interest of another person, dishonestly abuses that position and intends by doing so to make a gain for himself or another, or to cause loss to another, or to expose another to a risk of a loss'*

- 3.3. Put simply, fraud offences are a dishonest act where an individual deliberately does something dishonest or abuses their position with the intent of gaining a benefit / advantage for themselves or to cause someone else a disadvantage. Benefits can be cash, the avoidance of a fine or penalty or the receipt of goods and services.
- 3.4. Some examples of fraud include:
- The dishonest completion of claim forms such as benefit or grant claims in order to secure a grant or benefits to which someone is not entitled.
  - Dishonest completion of expense or mileage claim forms.
  - Abuse of Council services for personal use.
  - Dishonest awards of contracts to family or friends.
  - Dishonest manipulation of performance information or targets to award pay increments or other incentives etc.

### Theft

- 3.5. Fraud is different to theft, which is defined in the 1968 Theft Act as:  
*'A person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it'*
- 3.6. Put simply, theft offences are again a dishonesty offence where an individual deliberately and dishonestly takes something (this can be something physical such as cash or an item or an intellectual property item such as an idea or design), that is not theirs to take and uses it for their own purposes without permission.
- 3.7. Examples of theft include the stealing of assets / goods / stocks, misuse grants and public funds for purposes other than they were made available or theft of cash or equipment.

## **Bribery**

- 3.8. Bribery is defined in the Bribery Act 2010. Broadly, the Act defines bribery as *“giving or receiving a financial or other advantage in connection with the “improper performance” of a position of trust, or a function that is expected to be performed impartially or in good faith”*.
- 3.9. Put simply, bribery is the offering or acceptance of an incentive in order to do something that you know that you shouldn't or not do something that you know you should. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.
- 3.10. The act created 4 main bribery offences
- Bribing another person
  - Requesting or accepting a bribe
  - Bribing a foreign official
  - Failure of a commercial organisation to prevent bribery
- 3.11. Whilst the Council is not normally considered to be a “commercial organisation”, the term is used to describe any organisation in the UK that engages in commercial activities regardless of whether it pursues charitable, education aims or purely public functions. For the purposes of applying the Bribery Act 2010, the Council is treated as a commercial organisation and, therefore, needs to take appropriate steps, including the provision of appropriate procedures, to prevent bribery taking place.
- 3.12. Examples of bribery would include: the offering or acceptance, by any Council official or representative, of any incentive for them to do something that they should not such as; make a decision contrary to policies or procedures, disclose information that they should not or provide or deny services contrary to policies or entitlements. This could be offering tickets to a football match to gain advantage or information on the awarding of a contract but there are many other possibilities.
- 3.13. Prior to the Fraud and Bribery Acts, the term ‘corruption’ was used to describe fraudulent acts and bribes. This term is now used collectively to refer to dishonest acts covered by the outlined acts.

## **4. Anti-Fraud, Bribery and Corruption Framework**

- 4.1. The Council's Anti-Fraud, Bribery and Corruption Policy, Strategy Fraud Response Plan and Prosecution Policy form the Council's Anti-Fraud, Bribery and Corruption Framework. The Framework is a series of inter-related actions

and procedures designed to prevent and detect fraud, bribery or corruption and to take robust action where it is suspected.

- 4.2. The Council is committed to the continuous development of the Framework to ensure that it remains up to date and valid in the light of the dynamic risk environment in which the Council operates.
- 4.3. The Policy, Strategy and Framework all form part of the Council's wider governance arrangements that are designed to ensure the Council conducts its business effectively and properly, including safeguarding its resources and effectively meeting its responsibility for the safe stewardship of Public money. More details on the Governance arrangements can be found on the Council's Intranet site for employees, or on the Council's website under Council Policies. A visual representation of the wider governance framework is available at Appendix 1.

## 5. Expectations

- 5.1. Doncaster Council expects all Members, employees and those acting as its agents to conduct themselves in accordance with the seven principles of public life. These are defined by the Committee for Standards on Public Life and were revised in January 2013, but, were first published by the Nolan Committee in 1995.
- 5.2. The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally or locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, in health, education and social and care services. All public office holders are both servants of the public and stewards of public resources. These principles also apply to those in other services delivering public services. These principles are as follows:
  - Selflessness -  
Holders of public office should act solely in terms of the public interest
  - Integrity -  
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.
  - Objectivity -  
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination of bias.

- Accountability -  
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
  - Openness –  
Holder of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
  - Leadership -  
Holders of public office should exhibit these principals in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 5.3. The Council requires Members and employees at all levels to lead by example in adhering to legal requirements, financial rules, contract procedure rules, codes of conduct, and prescribed procedures and practices.
- 5.4. The Council requires directors and other senior managers to design and operate systems and procedures that will minimise losses due to fraud, bribery, and other dishonest action.
- 5.5. The Council expects Members and employees to be alert to the possibility of fraud, bribery and corruption in all their dealings and report suspicious activity via the Whistleblowing Procedures.
- 5.6. The Council will not tolerate fraud. Employees found to be defrauding the council face dismissal under the disciplinary process. Employees and any other parties defrauding the Council e.g. claimants or contractors will have their cases referred to the Police wherever this is in the public interest.

## **6. Related Policies and Procedures**

- 6.1. Whilst the Anti-Fraud, Bribery and Corruption Framework forms part of the Council's wider governance arrangements, there are a number of policies and procedures that are particularly relevant. These policies are as follows:-
- The Whistleblowing Policy
  - The Grievance Policy and Procedures
  - The Employee Code of Conduct
  - The Members Code of Conduct
  - The Complaints Policy
  - Disciplinary Policy and Procedures

## **7. Responsibility for this Document**

- 7.1. The Chief Executive has overall responsibility for the maintenance and operation of this framework. The Chief Executive is supported in this by the Director of Finance and Corporate Services, Assistant Director of Finance and Performance, Assistant Director of Human Resources and Communications, Assistant Director of Legal and Democratic Services and the Head of Internal Audit.

## **8. Review**

- 8.1. Fraud arrangements are continually reviewed. An annual review of this framework is carried out and the documents are revised as appropriate to reflect any key changes and to incorporate current best practice.
- 8.2. In assessing the effectiveness of its arrangements, the Council will consider the extent to which:
- key personnel are trained in detecting and investigating fraud,
  - fraud risks and new areas of fraud – fraud is an ever developing risk and arrangements need to continually evolve in order to maintain a robust response.
  - there are identified incidents of fraud and corruption.
  - action is taken against perpetrators and attempts to recover losses.
  - the Council responds to identified weaknesses in its systems and controls.
  - developments in technology affect the Council's ability prevent and to detect fraud.
  - data sharing and joint working initiatives are used to prevent and detect fraud.
- 8.3. An Annual Fraud Report is produced showing the outcomes of the Council's anti-fraud work and a counter fraud plan is included within the annual internal audit plan.
- 8.4. In order to keep abreast of key changes we undertake ongoing reviews of national issues and developments. Information from a range of sources is obtained and used in keeping our plans up to date, including from the HM Treasury, CIPFA Counter Fraud Centre, CIPFA Better Governance Forum, the National Fraud Authority and the National Anti-Fraud Network. We also meet with other South and West Yorkshire local authorities to share information on fraud risks and best practice.

# ANTI-FRAUD, BRIBERY AND CORRUPTION STRATEGY

## 1. Introduction

- 1.1. The Strategy describes the Council's approach to minimising the risk of fraud and dealing with any identified or suspected instances of fraud and corruption. The key objectives of the Strategy are to enable the Council to reduce the opportunity for fraud and to create a culture where fraud is unacceptable.
- 1.2. This strategy takes into account the 2014 CIPFA Code of Practice for Managing the Risk of Fraud and Corruption. An assessment of compliance with this code is underway. Where appropriate, an action plan will be created and monitored to ensure any identified improvements are taken forward.
- 1.3. This strategy is based on the Local Government Fraud Strategy, "Fighting Fraud Locally".
- 1.4. It should be noted that the Council has a stand-alone Benefits Fraud Policy and supporting Benefits Investigation Procedures. Whilst the general principles of this framework apply to both policies, this framework is intended to deal with none-benefits claim related fraud. More information on the Benefits Fraud Policy and procedures can be found at [www.doncaster.gov.uk](http://www.doncaster.gov.uk).

## 2. Key elements - Acknowledge

- 2.1. The way in which the Council manages the risk of fraud, bribery and corruption is shown in diagram form in the Anti-Fraud, Bribery and Corruption Framework, which can be seen in Appendix 1. The Anti-Fraud, Bribery and Corruption Policy and Strategy are just part of the wider governance framework which includes other key policies such as the Code of Conduct, financial and contract procedure rules, whistleblowing policies etc.
- 2.2. Recognising that fraud exists is key to tackling fraud and corruption in any organisation. Fraud is an ever evolving problem. It can range from a simple theft, con or scam to complex fraud affecting financial statements involving many companies and transactions. Fraudulent acts now make more and more use of new technologies and technological changes are always at risk of being exploited by fraudsters.
- 2.3. The Council acknowledges its responsibility for combatting fraud and corruption from both within and external to the organisation. The responsibility for anti-fraud arrangements is widely dispersed. Members, in particular through the Cabinet and the Audit Committee, have to give clear support to the Council's arrangements. The Council's senior management team must provide strong leadership by advocating the Council's arrangements and

supporting strong action when these are ignored. There is a strong correlation / relationship between good governance and good counter fraud operations.

- 2.4. The Chief Executive and Director of Finance and Corporate Services are responsible for ensuring there are strong and effective arrangements in place for managing the risk of fraud and ensuring the Council's interests are safeguarded, including its reputation.
- 2.5. Fraud risk is managed through the existence, and application, of appropriate policies and procedures and through the introduction of relevant control systems. These systems are the overall responsibility of managers throughout the Council. Consideration of fraud risks must be an integral part of everyday business decisions, project and change management and overall strategy.
- 2.6. Council managers have overall responsibility for acknowledging, assessing and managing the individual fraud risks relevant to their service areas. Assistance with this is available from Internal Audit where requested.
- 2.7. Internal audit will acknowledge and seek to include the review of fraud risks on any internal audit work carried out.
- 2.8. It is the responsibility of the Chief Executive in conjunction with the Director for Finance and Corporate Services as the Council's statutory Section 151 Officer to determine, and provide for, an appropriate level of resources to counter the risk of fraud and corruption identified for the Council. In practice, this is informed by the level of detected fraud, identified fraud and corruption risks and assessments of counter fraud activities undertaken within Internal Audit Services.
- 2.9. Counter fraud resources for the Council are currently dispersed with counter fraud activities being provided by Internal Audit, Benefits Enforcement, Trading Standards, Parking Services and elements of other service delivery areas such as Adults Health and Wellbeing in the case of counter fraud activities in relation to direct payments.
- 2.10. A list of potential fraud areas is included below. Please note that this list is not exhaustive.
  - Housing benefit claims.
  - Council tax exemptions and discounts.
  - Business rates exemptions and discounts.
  - Right to buy sales.
  - Social care and direct payment activities.
  - Insurance claims.

- Disabled parking (including blue badge misuse).
- Procurement.
- Housing tenancy fraud and illegal subletting.
- Pensions.
- Means tested services and grants.
- Creditor payments.
- Payroll claims and payments.
- Recruitment.
- Misuse of, misappropriation or theft of assets.
- Cash collection and cash payment systems.

### **3. Key elements – Prevent**

- 3.1. The responsibility for anti-fraud arrangements is widely dispersed. Members, in particular through the Cabinet and the Audit Committee, have to give clear support to the Council's arrangements. The Council's senior management team must provide strong leadership by advocating the Council's arrangements and supporting strong action when these are ignored.
- 3.2. The Chief Executive and Director of Finance and Corporate Services are responsible for ensuring there are strong and effective arrangements in place for managing the risk of fraud and ensuring the Council's interests are safeguarded, including its reputation.
- 3.3. The Council has adopted a Constitution which shows responsibilities for decision making and includes various contract and financial procedure rules. All Members and officers are required to act in accordance with these rules and requirements when carrying out their duties.
- 3.4. The Council aims to have in place efficient and effective systems of control that as far as possible prevent potential fraudsters from exploiting weaknesses. The prime responsibility for maintaining such systems lies with service managers. Support is given by the Council's Internal Audit Team, which provides an independent appraisal of the integrity of all internal control systems.
- 3.5. Key internal procedural and control initiatives in place within the Council to prevent fraud include: -

- an effective Anti-Fraud, Bribery and Corruption Policy and Strategy, that maintains a culture in which we will not tolerate fraud, bribery or corruption.
- a strong constitution and high level scheme of delegation.
- compliance by officers and Members with respective codes of conduct.
- a Register of Interests to enable Members and employees to record any financial or non-financial interests that may bring about conflict with the Council's interests.
- a Register of Gifts and Hospitality to enable employees and Members to record gifts and hospitality either received, or offered and declined, from the Council's contractors and suppliers.
- a Risk Management strategy and procedures.
- suitable and enforced Financial and Contract Procedure Rules.
- robust recruitment and selection procedures.
- DBS (Disclosure and Barring Service checks) and employee vetting procedures (where applicable).
- robust internal control environments designed and implemented by service managers and challenged through Internal Audit arrangements.

3.6. Deterring fraud is a large part of fraud prevention. The Council is committed to taking all viable steps to prevent, deter, detect and remedy instances of fraud and corruption whether the threat is internal to the organisation or external to it. Key to this is the development and maintenance of an anti-fraud culture. Key anti-fraud / deterrent measures include:

- clear and active disciplinary and grievance arrangements.
- publicising the anti-fraud message on claim forms, the website and on other interactions with the staff and public.
- a commitment to pursue sanctions against those who commit fraud, bribery and corruption through an agreed prosecutions and civil recovery policy and use of internal disciplinary arrangements.
- planned publication of fraud newsletters and fraud awareness campaigns.
- publication of an annual fraud report to publicise activity undertaken and its results.
- anti-fraud and corruption training.
- awareness of fraud risks by service and strategic managers.

- confidential reporting (Whistleblowing) procedures.

3.7. In addition to the above, proactive fraud detection and assurance activities both increase fraud awareness and overall fraud detection levels. The primary responsibility for internal control activities lies with service managers; however, there are other proactive initiatives that help to control these risks. Examples include:-

- participation in the Cabinet Office's National Fraud Initiative's mandatory and discretionary fraud detection initiatives.
- Internal Audit led internal data matching initiatives (matching data between Council systems to detect fraud and error).
- periodic checks on systems, processes and areas by Internal Audit as part of their statutory role.
- the use of continual analytical systems such as AP Forensics to examine creditor payments to detect duplicated payments, examine changes to supplier bank details in order to detect bank change mandate fraud or detect potential employee conflicts of interest.
- working with the Council's bank through dedicated software to detect instances where the Council's cheques have been fraudulently altered (cheque fraud).
- auditing by dedicated individuals of direct payments paid to adults for their personal care to detect misuse or fraud.
- close working with the Digital Council Programme and other change initiatives to ensure the introduction of robust controls from the inception of projects or change processes.
- provision of advice services by Internal Audit Services, Financial Services and Legal Services to service managers.

#### **4. Key elements – Pursue**

##### **Investigate**

4.1. Pursuing suspected fraud and error is also a key factor in the success of counter fraud activities across any organisation. The Council has a Fraud Response Plan which provides detailed fraud-response arrangements to enable any information gained or allegations made to be properly and effectively dealt with. The plan explains how any fraud allegations will be dealt with and who is responsible for their investigation. Generally speaking, low level fraud cases will be investigated by service managers with assistance from Human Resources and Internal Audit. Larger scale concerns may be

investigated directly by Internal Audit Services with Human Resources where there are employees involved. Each case however, will be assessed on its own merits and an appropriate person assigned to investigate it.

- 4.2. Details on how to refer suspected frauds for investigation can be found in the Whistleblowing Policy and Procedures and associated Whistleblowing Factsheet. These are available on the Council's website. A dedicated fraud hotline is also maintained and referrals can be made to Internal Audit Services by calling the hotline on 01302 862931. Wherever a whistleblow is received that alleges fraud or corruption, Internal Audit Services will be informed.
- 4.3. In addition to the above, it is recognised that the Council's Complaints Procedures also have a part to play. Often, the complaints process is the first port of call for non-employees wishing to raise a concern about a process or event. It is important that concerns being raised through this route are dealt with properly and that it is recognised that where concerns are about fraud and corruption, that they are dealt with through the Whistleblowing Policy and the Anti-Fraud and Corruption Framework rather than the complaints procedure.
- 4.4. It is important that any frauds are investigated by suitable individuals. The Council employs trained investigators to investigate complex cases. Employees working within the Benefits Fraud Team are PinS Trained investigators (Professional in Security Training), whilst those dealing with fraud in Internal Audit are CIPFA CIPS trained (Certificate in Investigative Practice). Providing trained and dedicated staff ensures that the Council has the skills to successfully investigate suspected cases of fraud and obtain the best possible outcomes for the tax payer. In addition to the above, the Council has access to dedicated financial investigators through the National Anti-Fraud Network. These are specialist trained investigators who investigate financial affairs to attempt to trace any profits from fraud and recover them through POCA legislation (Proceeds of Crime Act). The Council does not employ its own financial investigator as the role is specialist and is not needed full time. Where the Council needs such a specialist role, it will either liaise with the financial investigators of the Police or will seek to contract such services as necessary.
- 4.5. During any investigation, it is important to consider whether the Police need to be involved in any investigation and at what stage this involvement should start. The Council will work in partnership with the Police to investigate and prosecute detected fraud and corruption. The extent of the involvement by the police will be different in each case and will depend on what is being investigated, its size and complexity and whether the Council has sufficient powers to investigate and prosecute the case. The Council will work with the Police to investigate all cases that are referred to the Police. Specific roles and responsibilities will be determined on a case by case basis as it will depend largely on what is being investigated. Referrals to the Police will be

made at a suitable point in the case by Internal Audit Services or the Director of Finance and Corporate Services. No referrals should be made to the Police for fraud, bribery or corruption by other parties.

- 4.6. Where a case referred to the Police involves an employee, the case will be pursued on a parallel basis wherever possible. (This is where a criminal case is progressed alongside an internal disciplinary or civil case). Internal Audit Services will work with the Police to progress any criminal case and will work with Human Resources to progress internal investigations and sanctions.
- 4.7. After any investigation, changes to the control environment are always considered to limit any further fraud exposures or to improve detection measures. These actions / changes are monitored by Internal Audit Services and are reported on in the services Annual Report.

### **Prosecute / Sanctions**

- 4.8. The final stage in the pursue element is to take action against those where fraud has been confirmed. The Council has a formally agreed Prosecution Policy that outlines action that will be taken against any party committing fraud against the Council. Action will be taken against those responsible for fraudulent acts wherever it is in the public interest to do so. Where the Police have been involved in any case and there is sufficient evidence to proceed, the Council will work with the Police to prosecute instances of fraud and corruption. Where the Police have not been involved and it is in the Public interest, criminal and civil actions will be considered and taken by the Council wherever there is a legal route to do so.
- 4.9. Where employees have committed a fraudulent or corrupt act, the Disciplinary and Grievance Policy and associated procedures are also an important element. Consideration will be given in each case, by Internal Audit Service and the relevant Human Resources Officers, to determine whether any prosecution is undertaken at the same time as internal disciplinary processes are undertaken. So called “parallel sanctions” will be undertaken wherever possible and in the public interest.
- 4.10. The Council seeks to work with its partner agencies and other government agencies to take action against those that commit fraudulent acts. The Council will share information as appropriate with partner agencies wherever there is a clear and legal path for doing so. Generally, information required for the prevention and detection of fraud is exempt from the requirements of the Data Protection Act although any information requested must always be proportionate to the issue being investigated. The Council will comply with the requirements of the Data Protection Act and with the Regulation of Investigatory Powers Act in all its fraud investigations.

4.11. Details of action taken and investigations of any suspected frauds within the Council are reported annually in the Annual Fraud Report to Audit Committee in July each year.

## **5. Roles and Responsibilities**

5.1. Throughout this framework, reference has been made to the various roles and responsibilities of individuals or services. For reference, these responsibilities are summarised below.

### **5.2. General responsibilities (all persons)**

- To report suspected concerns or irregularities through the arrangements in the Whistleblowing Policy.
- To uphold a positive anti-fraud, bribery and corruption culture.
- To undertake anti-fraud training as adopted by the Council.
- To comply with the Council's Code of Official Conduct together with any additional code relating to their professional qualifications.
- To act in accordance with Financial and Contract Procedure Rules
- To declare any interests and offers of gifts and hospitality that are in any way related to the performance of their duties of employment at the Council.
- To make annual declarations of interest to enable their managers to effectively manage situations where a conflict of interest may occur.

### **5.3. Manager responsibilities**

- To design and apply controls in their area as appropriate to prevent and detect fraud and corruption.
- To deal with conflicts of interest raised by their staff in an appropriate and responsible way.
- To ensure all their staff are adequately trained on procedures and controls to be complied with.
- To ensure proper procedures are being followed.
- To follow prescribed recruitment procedures aimed at recruiting high quality and honest staff.

- To assist those charged with the investigation of a concern and provide evidence to support any investigation or to investigate concerns, where agreed, using the Authority's disciplinary procedures where the outcome of an investigation indicates improper behaviour.
- To ensure that all suspected financial irregularities or financial impropriety brought to their attention are reported to the Director of Finance and Corporate Services and/or the Head of Internal Audit.

#### 5.4. Chief Executive responsibilities

- To be responsible for the overall management arrangements of the Council.
- To promote an organisational culture that accords with the principles of public life.
- Develop and maintain an Anti-Fraud, Bribery and Corruption Framework.

#### 5.5. Director of Finance and Corporate Services responsibilities

- To maintain adequate and effective internal control arrangements.
- To ensure that all suspected financial irregularities are reported to the Head of Internal Audit.
- To refer cases to the Police for investigation / prosecution alongside Internal Audit Services.
- To ensure that sufficient resources and that sufficiently trained staff are provided to fulfil the Council's anti-fraud aims and properly investigate suspicions of fraud and corruption.

#### 5.6. Audit Committee responsibilities

- To review the risk management arrangements for the Council and the effectiveness of the Internal Audit function.
- To monitor, via reports from Internal Audit Services, the implementation of agreed management actions to improve the control environment and take action where these actions are not being implemented.

#### 5.7. Monitoring Officer responsibilities (Assistant Director of Legal and Democratic Services)

- To advise on legal proceedings where there have been legal breaches.
- To advise on the recovery of assets and losses where appropriate.

#### 5.8. Assistant Director of Human Resources responsibilities

- To develop vetting and barring procedures which are intended to deliver high quality personnel with suitable levels of integrity into the Council's employment.
- To provide advice to employees wishing to raise concerns.
- To advise departmental managers required to make decisions with regards to suspension and disciplinary proceedings.

#### 5.9. Head of Internal Audit responsibilities

- To support managers in preventing and detecting fraud, bribery and corruption.
- To provide assurance on the appropriateness and effectiveness of systems and procedures.
- To investigate serious suspected financial irregularity and will liaise with managers to recommend changes in procedures to prevent further losses to the authority.
- To consult with the Police or refer an investigation to them, as appropriate.

#### 5.10. External Auditor responsibilities

- To carry out specific reviews that are designed to test (amongst other things) the adequacy of the authority's internal financial and other controls and arrangements for preventing and detecting fraud and irregularity.
- To review the Council's accounts to ensure they are free from significant fraud and error.
- To liaise with Internal Audit Services on fraud referrals received directly by them and investigate those deemed in the public interest.

# SANCTIONS / PROSECUTION POLICY

## 1. Policy Statement

- 1.1. After any investigation, sanctions should be applied where fraud has been found to have been committed. The Council will pursue criminal and civil action in a robust, consistent and proportionate manner wherever this is in the public interest.
- 1.2. The Council will pursue a range of options, as appropriate to each case, including:-
  - Pursuit of civil or criminal sanctions through the courts (either in conjunction with the Police or directly as determined by the Anti-Fraud, Bribery and Corruption Strategy).
  - Internal disciplinary action against any employee committing fraud using the Council's Disciplinary Policy.
  - Recovery of losses by recovering pension contributions from employees who are members of the Pension Fund.
  - Recovery of losses by recovering assets owned by an employee or third party found guilty of committing fraud through POCA (Proceeds of Crime Act) legislation or Unlawful Profit Order (UPO)
  - Filing for Bankruptcy where an individual has a poor history of paying.
  - Recovery from any current salaries or by way of an attachment of earnings'.
  - Referral of any detected frauds through to the relevant professional bodies as appropriate.
- 1.3. The Council condemns any breaches and abuses of its financial systems and procedures and is committed to deterring all such intentional breaches and abuses. In all cases where it is in the public interest, criminal or civil action will be taken either by the Council or in collaboration with the Police. Any cases where prosecutions are successful will be published in order to act as a further fraud deterrent.
- 1.4. The Council will, if satisfied that it has suitable grounds for doing so, seek to recover from any person or member of staff who has abused its financial systems and procedures, any losses incurred to the public purse.
- 1.5. In implementing this policy, the Council will rely on the advice of the Chief Executive, Assistant Director of Legal and Democratic Services, Assistant Director of Finance and Performance, its Monitoring Officer and the Head of Internal Audit.

# **FRAUD RESPONSE PLAN**

## **1. Purpose**

- 1.1. This document provides guidance and a framework for the investigation of suspected instances of fraud and corruption. It gives guidance, whether to those raising concerns or those investigating concerns, as to how any fraud investigation will proceed.
- 1.2. This document sets out, in simple terms, how a fraud investigation will be conducted. Each investigation will be different as each will have different elements and will require different actions but will follow the same overall principles. Guidance on this policy and the appropriate investigative steps can be obtained from Internal Audit Services or Human Resources.

## **2. Objectives**

- 2.1. This plan aims to ensure timely and effective action can be taken to:
  - minimise the risk of inappropriate investigative action by employees or managers;
  - minimise the risk that someone will inappropriately disclose information about a concern or investigation that could compromise it;
  - ensure that there is a clear understanding about who will lead on any investigation and ensure local managers and other departments are involved as appropriate;
  - secure evidence relating to any investigation and ensure that such evidence is adequately protected;
  - prevent further losses of funds or other assets where fraud has occurred and maximise the chances to recover any losses;
  - ensure that there is sufficient evidence to support any allegation before civil, criminal or internal disciplinary action is started;
  - minimise any adverse publicity for Doncaster Council as caused by dishonest fraudulent acts;

## **3. Links with other policies**

- 3.1. This policy directly links to both the Complaints and Whistleblowing Policies. Concerns of fraud or misconduct are often received through these channels.
- 3.2. It is important that fraud concerns raised through the Complaints process are dealt with as fraud referrals and not as complaints. This is because:-

- the timescales involved in acknowledging and responding to complaints is not appropriate for fraud investigations. Whilst every attempt is made to deal with all investigations in a timely and prompt way, it is not possible to set a definitive deadline in which to complete it. The gathering and interpretation of evidence is a key element in the success of any investigation and it is this that drives the length of any investigation.
  - whilst it is important to maintain communication with anyone raising a concern, consideration needs to be given as to how much information can be disclosed without breaching the Data Protection Act or putting the investigation itself at risk. The information that can be released needs to be carefully considered and will always be in line with the guidance in the Whistleblowing Policy.
- 3.3. Complaints that are received through the Whistleblowing Policy and fraud or wrong-doing concerns that are raised through the Complaints Policy will be dealt with under the most appropriate policy. Any individuals making such a referral will be told under which policy the concerns are to be investigated.

#### **4. What to do if you suspect fraud**

- 4.1. If you suspect fraud or wrong-doing, you should follow the instructions contained within the Whistleblowing Policy to raise your concern. After the concern is raised, a decision will be made about who is best placed and has the right skills to investigate any concern. This is discussed in more detail in the next section of this plan.
- 4.2. It is important that you don't:-
- try to investigate any concerns yourself;
  - discuss your concerns outside of the routes in the Whistleblowing Policy;
  - confront anyone, whether an employee or not, about your suspicions;
  - ignore your concerns.
- 4.3. This is because:-
- you may alert those you suspect to a potential investigation;
  - evidence could be destroyed;
  - evidence could be compromised and may not be usable in any investigation or prosecution if it has been interfered with;
  - Council relationships between employees, suppliers or partner agencies could be damaged;

- the Council's reputation could be damaged unnecessarily.

## **5. Assigning the investigation**

- 5.1. When a referral for a suspected fraud is received, it is common practice for background work to be undertaken in order to determine whether the concerns are valid. This ensures that employee / supplier / contractor or other party relationships are not unnecessarily damaged by a formal investigation.
- 5.2. If initial background work suggests that the concern is valid and requires further detailed investigation, a case strategy meeting will be held. The meeting will consist of a senior manager within the affected area, a representative from Internal Audit Services and, where the concerns relate to an employee, a member of Human Resources. The situation will be discussed and a decision made as to who will conduct the investigation.
- 5.3. Where fraud concerns are relatively simple in nature, these will be assigned to a relevant manager to undertake with guidance as appropriate from Internal Audit Services. Where the concerns are more serious, more complex or require specialist knowledge or training or are likely to result in criminal or civil proceedings, these will be investigated by Internal Audit Services.
- 5.4. Where concerns relate to housing benefit fraud or council tax fraud, these concerns will be directed to, and investigated by, the Benefits Fraud Team at the earliest opportunity.

## **6. Undertaking the investigation**

- 6.1. Once assigned to a responsible person, the investigation can proceed. Advice will be offered by Internal Audit Services throughout any management investigation.
- 6.2. There are no set timescales for the investigation of any fraud. Guidelines for the investigation of employees under the Disciplinary Policy aim for such work to be completed within 8 weeks. The timescale for any fraud investigation will be driven by the complexity of the allegations and the number of years any activity is suspected to have gone on for. In all case however, investigations should be carried out as quickly as possible whilst maintaining investigative standards.
- 6.3. Evidence should be secured as early as possible in any investigation to ensure that it is not destroyed or lost. It is important that any such documentation is securely stored and is retained both during and after the investigation. Internal Audit Services will provide advice and support on gathering and retaining evidence as required.
- 6.4. The securing of electronic data, surveillance or CCTV footage, computers or equivalent equipment is a specialised procedure. The collection of such

information can, inadvertently, damage the evidence being secured and can damage any potential prosecution if allegations are proved correct. Specialist advice from Internal Audit must be sought before attempting to collect such information.

- 6.5. Any interviews of any potential suspect or witness need to be arranged when suitable evidence has been gathered. It is important that any interview is conducted fairly and impartially. A failure to do so can damage any sanctions (internal or external) and bring the reputation of the Council into disrepute. All interviews must be recorded, either electronically or by the creation of adequate supporting interview notes and a statement. It is always best practice to get the person interviewed to sign off any statement provided.
- 6.6. Where any investigation suggests criminal activity, a decision will be made, in conjunction with Internal Audit Services and Legal Services, as to whether to involve the Police from the outset of any investigation. Interviews under the PACE Act (Police and Criminal Evidence Act) must only be performed by those with the required training to do so and must be properly recorded. A copy of any interview tapes will be made available to the interviewee in line with normal PACE procedures.
- 6.7. Referrals to the Police will be made by Internal Audit Services or the Director of Finance and Corporate Services. Internal Audit Services will liaise with the Police throughout the investigation to ensure that any prosecution has the highest likelihood of success.

## **7. Preserving evidence**

- 7.1. In gathering any evidence care must be taken to:
  - avoid any changes to the evidence (original documents must be preserved and not written on or damaged).
  - avoid any unnecessary or unjustifiable breaches of an individual's human rights (guidance and support is available from Legal Services, Human Resources and Internal Audit Services in the performance of searches, the use of computer monitoring data or building access logs or the monitoring of individuals using surveillance techniques that may breach such rights).
  - collect computers and electronic information in a way that does not compromise the information. On no account should any computer thought to contain evidence relating to a fraud investigation be handled, turned on or shut down. Advice must be sought from Internal Audit Services who will ensure that the computer is secured in an appropriate way. Only those persons trained to do so, should secure computer based evidence.

- prevent access by any suspended employee to any files or computer system. Where an employee is suspended on the advice of Human Resources, access to the building, records and computer systems should be temporarily suspended to prevent any tampering with any available evidence. Where an employee requires access to files or electronic systems for their own defence, this should be supervised or the employee should access a copy of the relevant files to prevent tampering.

## **8. Managing communications**

- 8.1. Whistleblowers / complainants will be kept informed about the progress of an investigation as prescribed in the Whistleblowing Policy. However, detailed information on progress or detailed findings will not be released wherever there is a concern that it may damage an investigation. In releasing any information, those investigating must be aware of the requirements of the Data Protection Act and must not release any information relating to action being taken against an individual.
- 8.2. The Communications Team will deal with any press or publicity in connection with any investigated case. Where appropriate the details of all successful prosecutions will be released to the media through the Communications Team. Staff and managers must not directly disclose any information to the press except through the Communications Team.
- 8.3. The aim of any press release is to deter further fraud and corruption and show the Council's commitment to preventing, detecting and prosecuting those who commit fraud against the Council.

## **9. Concluding investigations**

- 9.1. At the conclusion of any investigation, a decision needs to be made as to whether the investigation and its evidence warrants action being taken against any individual or individuals as outlined in the Sanctions / Prosecution Policy. Any decision will be based on the quality of the evidence available, the size of any fraud or issue and the likelihood of success of any sanction attempted. This decision will be made with input from all relevant parties including Legal Services, Internal Audit Services, Human Resources (where an employee is involved) and service management. Advice will also be taken from the Police where applicable.
- 9.2. Internal Audit Services retains a log of all referred fraud and corruption and is required to report under the Transparency Code the outcome of any investigations and the values of any fraud detected. In addition, the results of any investigations that were deemed to result from a Whistleblow are also recorded for reporting purposes.

9.3. When cases of fraud are investigated, these will be reported in the Annual Fraud Report.

**APPENDIX 1: THE WIDER GOVERNANCE FRAMEWORK**

